

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

**Illinois Bell Telephone Company (Ameritech:
Illinois) and XO Illinois, Inc. :**
:
:
Approval of the Third Amendment to : 02-0445
Interconnection Agreement dated May 1, :
2002, pursuant to 47 U.S.C. §§ 252 (a)(1) :
and 252(e). :

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On June 28, 2002, pursuant to 83 Illinois Administrative Code Part 763, Illinois Bell Telephone Company ("Ameritech Illinois") and XO Illinois, Inc. ("XO") filed a joint request for approval of the negotiated Interconnection Agreement dated May 1, 2002 ("Agreement"), under Sections 252(a)(1) and (e) of the Telecommunications Act of 1996 (47 U.S.C. 151, et seq.) ("Act"). The Agreement was submitted with the request. A statement in support of the request was filed along with verifications sworn to by Eric Larsen, Director of Negotiations for Ameritech Illinois and Doug Kinkoph, Vice President of Regulatory and External Affairs for XO, stating that the facts contained in the request for approval are true and correct.

Pursuant to notice as required by law and the rules and regulations of the Commission, this matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois, on July 17, 2002. Staff filed the Verified Statement of A. Olusanjo Omoniyi, Policy Analyst in the Commission's Telecommunications Division, which was admitted into evidence. Mr. Omoniyi recommended the approval of the Agreement. At the hearing, Staff indicated that there were no unresolved issues in this proceeding, and the record was marked "Heard and Taken."

II. SECTION 252 OF THE TELECOMMUNICATIONS ACT

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection, services or network elements. Ameritech Illinois and XO have negotiated such an Agreement and submitted it for approval in this proceeding.

Section 252(e)(1) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation ... shall be submitted for approval to the State Commission." This Section further provides that a State Commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State Commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity." Section 252(e)(4) provides that the agreement shall be deemed approved if the State Commission fails to act within 90 days after submission by the parties.

Section 252(h) requires a State Commission to make a copy of each agreement approved under subsection (3) "available for public inspection and copying within 10 days after the agreement or statement is approved."

Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

III. THE AGREEMENT

The Agreement between Ameritech Illinois and XO is the result of negotiations. The instant interconnection agreement is the third amendment between the parties. This Agreement added an Appendix of Illinois Recourse Credits to the underlying Agreement. This Amendment is intended to supersede and replace any provisions by which Ameritech Illinois was required to reimburse XO for amounts paid to XO's end users for failure to meet any performance or service related obligations. Also, the Table of Contents of the underlying Agreement was modified to add the additional Appendix. The underlying Agreement establishes key provisions regarding the financial and operational terms including, but not limited to, the physical interconnection between Ameritech Illinois' and XO's networks on access to rights of way and databases; unbundled access to Ameritech Illinois' network elements, including Ameritech Illinois' operations support systems functions; collocation; number portability; resale; and a variety of other business relationships.

IV. POSITIONS OF THE PARTIES

No party contended that this Agreement is discriminatory or contrary to the public interest. Staff recommended that the Agreement be approved by the Commission, for the reasons set forth in the Verified Statement of Mr. Omoniyi. There are no contested issues in this docket.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Ameritech Illinois and XO Illinois, Inc. are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act;
- (2) Ameritech Illinois and XO Illinois, Inc. have entered into an Agreement dated as of May 1, 2002, which has been submitted to the Commission for approval under Section 252(e) of the Telecommunications Act of 1996;
- (3) the Commission has jurisdiction over the parties hereto and the subject matter hereof;
- (4) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) the Agreement between Ameritech Illinois and XO Illinois, Inc. does not discriminate against a telecommunications carrier not a party to the Agreement;
- (6) in order to assure that the Agreement is in the public interest, Ameritech Illinois should implement the Agreement by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved agreement is the same as the Agreement filed in this docket with the verified Petition. The Chief Clerk shall place the Agreement on the Commission's website under Interconnection Agreements;
- (7) Ameritech Illinois should also place replacement sheets in its tariffs at the following location: Ill.C.C. No. 21 Section 19.15;
- (8) the Agreement should be approved as hereinafter set forth;
- (9) approval of the Agreement does not have any precedential effect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Agreement dated May 1, 2002, between Ameritech Illinois and XO Illinois, Inc., is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that Ameritech Illinois shall comply with findings (6) and (7) of this Order within five days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of August, 2002.

(SIGNED) RICHARD L. MATHIAS

Chairman